

BEFORE THE
Federal Communications Commission

WASHINGTON, D. C. 20554

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Federal Communications Commission
Office of the Secretary

In re Matter of)
)
Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service.)

MM DOCKET NO. 87-268

To: The Commission

COMMENTS

Balcones Broadcasting Limited ("Balcones") is the permittee of television station KCFP(TV), Channel 54, Austin, Texas. Balcones hereby provides the following comments with respect to the Commission's Notice of Proposed Rule Making, FCC 91-337, released November 8, 1991 ("Notice"), in the advanced television systems docket.

Balcones understands that comments are being filed this day by a number of broadcast entities under the caption Joint Broadcaster Comments. In almost all respects, Balcones believes that the Joint Broadcaster Comments are well taken and should be reflected in the Commission's adoption of a report and order in this proceeding.

However, Balcones understands that the Joint Broadcaster Comments may take the position that television station licensees should receive a preference over television station permittees in the allotment of spectrum from HDTV. Balcones strongly disagrees with this approach. There is no reason for limiting

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the initial pool of those eligible for HDTV authorizations in a given area to existing licensees, while treating permittees as second-class broadcast citizens.

Under the Commission's rules providing for "self-granting" program test authority, 47 C.F.R. § 73.1620, any broadcast permittee not proposing the use of a directional antenna may commence operations immediately upon the completion of construction without waiting for the filing, much less a grant, of its license application. Under Section 319 of the Communications Act of 1934, as amended, the granting of the license to cover the permit amounts to a mere formality confirming that a permittee has constructed the station in accordance with the terms of the permit. Because of the relatively insignificant nature of license applications, they are not given any priority in processing triage. Therefore, stations frequently broadcast for more than a year (sometimes as much as four years) on the authority of the construction permit alone, before any license is granted.

The substantive review of an applicant's proposal takes place during the pendency of the construction permit application. Under Section 319, all objections to a given proposal are to be submitted before the construction permit is granted.

Accordingly, the class of station permittees includes both stations which are on the air now as well as stations not yet on the air but whose owners' have invested hundreds of thousands of dollars toward the television station project in question.

Such entities therefore do not deserve to be relegated to a lower priority than companies which have already received operating licenses. Indeed, existing licensees are more likely to have recouped more of their investment in their initial NTSC authorizations, and thus may be less deserving of a preference in the eventual allotment of HDTV frequencies.

For the above reasons, in those cases where there is a shortage of available spectrum, the Commission should not exclude television station permittees from the initial pool of parties eligible for those authorizations. Rather, both permittees and licensees should be placed on equal footing in qualifying for the available HDTV authorizations.

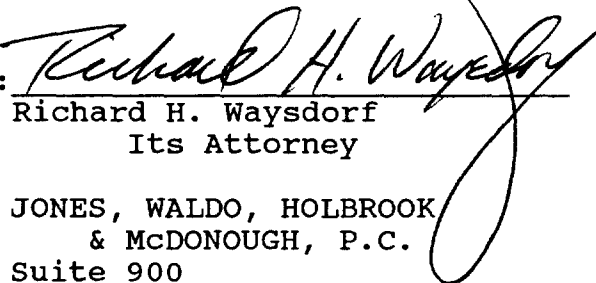
In other respects, Balcones Broadcasting Limited generally endorses the positions of the Joint Broadcasters. However, Balcones believes that, in order to ensure the viability of broadcast HDTV and the consequent benefit to the public, the Commission should unequivocally mandate that cable systems carry any station undertaking HDTV broadcasts, without impairing carriage of that station's NTSC signal. Only in that way will

all cable subscribers be assured of convenient access to the broadcasts of permittees and licensees who, unique among program providers, are obligated to program in the public interest.

Respectfully submitted,

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